

By the Committee on Judiciary and Representative Pruitt

1 A bill to be entitled
2 An act relating to victim assistance and
3 compensation; amending s. 960.001, F.S.;
4 providing for the assertion of a victim's
5 rights as provided by law or the State
6 Constitution; amending s. 960.03, F.S.;
7 providing definitions; amending s. 960.05,
8 F.S.; prescribing the purposes of the Crime
9 Victims' Services Office in the Department of
10 Legal Affairs; amending s. 960.065, F.S.;
11 prescribing eligibility criteria for awards
12 granted under ch. 960, F.S.; amending s.
13 960.12, F.S.; increasing the maximum amount of
14 an emergency award; amending s. 960.13, F.S.;
15 prescribing criteria applicable to awards;
16 allowing the department to establish, by rule,
17 maximum award amounts that are lower than the
18 statutory maximums; amending s. 960.14, F.S.;
19 specifying the circumstances in which the
20 department may modify or rescind previous
21 awards for victim compensation; creating s.
22 960.198, F.S.; allowing the department to award
23 to a victim of domestic violence a sum of money
24 which the victim may use for relocating;
25 providing maximum amounts of such awards;
26 providing prerequisites; amending s. 960.28,
27 F.S.; increasing the limit on payment for
28 victims' examination expenses by the office;
29 providing applicability; providing effective
30 dates.
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Subsections (7) and (8) of section 960.001,
4 Florida Statutes, 1998 Supplement, are renumbered as
5 subsections (8) and (9), respectively, and a new subsection
6 (7) is added to said section to read:

7 960.001 Guidelines for fair treatment of victims and
8 witnesses in the criminal justice and juvenile justice
9 systems.--

10 (7) The victim of a crime and the state attorney, with
11 the consent of the victim, have standing to assert the rights
12 of a crime victim which are provided by law or s. 16(b), Art.
13 I of the State Constitution.

14 Section 2. Section 960.03, Florida Statutes, 1998
15 Supplement, is amended to read:

16 960.03 Definitions.--As used in ss. 960.01-960.28,
17 unless the context otherwise requires, the term:

18 (1) "Catastrophic injury" means a permanent impairment
19 constituted by:

20 (a) Spinal cord injury involving severe paralysis of
21 an arm, a leg, or the trunk;

22 (b) Amputation of an arm, a hand, a foot, or a leg;

23 (c) Severe brain or closed-head injury as evidenced

24 by:

25 1. Severe sensory or motor disturbances;

26 2. Severe communication disturbances;

27 3. Severe complex integrated disturbances of cerebral
28 function;

29 4. Severe episodic neurological disorders; or

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1 5. Other severe brain and closed-head injury
2 conditions at least as severe in nature as any condition
3 described in subparagraphs 1.-4.;
4 (d) Second-degree or third-degree burns on 25 percent
5 or more of the total body surface or third-degree burns on 5
6 percent or more of the face and hands;
7 (e) Total or industrial blindness; or
8 (f) Any other injury that would otherwise qualify
9 under this chapter and that is of a nature and severity that
10 would qualify an employee to receive disability income
11 benefits under Title II or supplemental security income
12 benefits under Title XVI of the Federal Social Security Act as
13 the Social Security Act existed on July 1, 1992, without
14 regard to any time limitations provided under that act.
15 (2)~~(1)~~ "Claimant" means the person on whose behalf an
16 award is sought.
17 ~~(2) "Department" means the Department of Legal~~
18 ~~Affairs.~~
19 (3) "Crime" means:
20 (a) A felony or misdemeanor offense committed by
21 either an adult or a juvenile which results in physical injury
22 or death. The term also includes any such criminal act which
23 is committed within this state but which falls exclusively
24 within federal jurisdiction.
25 (b) A violation of s. 316.193, s. 316.027(1), s.
26 327.35(1), or s. 782.071(2), or s. 860.13(1)(a) which results
27 in physical injury or death; however, no other act involving
28 the operation of a motor vehicle, boat, or aircraft which
29 results in injury or death shall constitute a crime for the
30 purpose of this chapter unless the injury or death was
31 intentionally inflicted through the use of such vehicle, boat,

1 or aircraft or unless such vehicle, boat, or aircraft is an
2 implement of a crime to which this act applies.

3 (c) A criminal act committed outside of this state
4 against a resident of this state which ~~that~~ would have been
5 compensable if it had occurred in this state and which ~~that~~
6 occurred in a state that does not have an eligible crime
7 victim compensation program as the term is defined in the
8 federal Victims of Crime Act of 1984.

9 (d) An act of mass violence or an act of international
10 terrorism, as defined in 18 U.S.C. s. 2331, which ~~that~~ is
11 committed outside of the territorial boundaries of the United
12 States upon a resident of this state, when such act results in
13 physical injury or death and the person is not eligible for
14 compensation under Title VIII of the Omnibus Diplomatic
15 Security and Antiterrorism Act of 1986.

16 (4) "Crime Victims' Services Office" means the former
17 Bureau of Crimes Compensation and Victim and Witness Services,
18 now the Crime Victims' Services Office of the Department of
19 Legal Affairs.

20 (5) "Department" means the Department of Legal
21 Affairs.

22 (6)~~(5)~~ "Disabled adult" means a person 18 years of age
23 or older who suffers from a condition of physical or mental
24 incapacitation due to a developmental disability or organic
25 brain damage or mental limitations that restrict the person's
26 ability to perform the normal activities of daily living.

27 (7)~~(6)~~ "Elderly person" means a person 60 years of age
28 or older who is suffering from the infirmities of aging as
29 manifested by advanced age or organic brain damage, or other
30 physical, mental, or emotional dysfunction, to the extent that
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1 the ability of the person to provide adequately for his or her
2 own care or protection is impaired.

3 (8)~~(7)~~ "Hearing officer" means a hearing officer
4 designated by the Attorney General.

5 (9)~~(8)~~ "Intervenor" means any person who goes to the
6 aid of another and suffers bodily injury or death as a direct
7 result of acting, not recklessly, to prevent the commission of
8 a crime, to lawfully apprehend a person reasonably suspected
9 of having committed a crime, or to aid the victim of a crime.

10 ~~(9) "Victim" means:~~

11 ~~(a) A person who suffers personal physical injury or~~
12 ~~death as a direct result of a crime; or~~

13 ~~(b) A person less than 16 years of age who was present~~
14 ~~at the scene of a crime, saw or heard the crime, and suffered~~
15 ~~a psychiatric or psychological injury because of the crime,~~
16 ~~but who was not physically injured.~~

17 (10) "Out-of-pocket loss" means unreimbursed and
18 unreimbursable expenses or indebtedness incurred for medical
19 care, nonmedical remedial care, psychological counseling, or
20 other treatment rendered in accordance with a religious method
21 of healing or for other services necessary as a result of the
22 injury or death upon which such claim is based.

23 (11) "Property loss" means the loss of tangible
24 personal property directly caused by a criminal or delinquent
25 act of another.

26 (12) "Treatment" means:

27 (a) Medical, dental, psychological, mental health,
28 chiropractic, or physical rehabilitation services;

29 (b) Nonmedical remedial care; or

30 (c) Other treatment rendered in accordance with a
31 religious method of healing.

1 (13) "Victim" means:

2 (a) A person who suffers personal physical injury or
3 death as a direct result of a crime;

4 (b) A person less than 16 years of age who was present
5 at the scene of a crime, saw or heard the crime, and suffered
6 a psychiatric or psychological injury because of the crime,
7 but who was not physically injured; or

8 (c) A person against whom a forcible felony was
9 committed and who suffers a psychiatric or psychological
10 injury as a direct result of that crime but who does not
11 otherwise sustain a personal physical injury or death.

12 Section 3. Paragraphs (k) and (m) of subsection (2) of
13 section 960.05, Florida Statutes, are amended to read:

14 960.05 Crime Victims' Services Office.--

15 (2) The Crime Victims' Services Office is established
16 for the following purposes:

17 (k) To receive request from the state attorney or from
18 the law enforcement agencies involved such investigation and
19 data, including confidential records,as will enable the
20 department to determine if, in fact, a crime was committed or
21 attempted, and the extent, if any, to which the victim or
22 claimant was responsible for his or her own injury or death.

23 (m) To require the submission of such ~~medical~~ records
24 as are required and, when necessary, to direct medical
25 examination of the victim or intervenor.

26 Section 4. Section 960.065, Florida Statutes, is
27 amended to read:

28 960.065 Eligibility for awards.--

29 (1) Except as provided in subsection (2), the
30 following persons shall be eligible for awards pursuant to
31 this chapter:

- 1 (a) A victim.
- 2 (b) An intervenor.
- 3 (c) A surviving spouse, parent or guardian, sibling,
4 or child of a deceased victim or intervenor.
- 5 (d) Any other person who is dependent for his or her
6 principal support upon a deceased victim or intervenor.
- 7 (2) Any claim filed by or on behalf of a person who:
- 8 (a) Committed or aided in the commission of the crime
9 upon which the claim for compensation was based; ~~or~~
- 10 (b) Was engaged in an unlawful activity at the time of
11 the crime upon which the claim for compensation is based;~~;~~
- 12 (c) Was in custody or confined, regardless of
13 conviction, in a county or municipal detention facility, a
14 state or federal correctional facility, or a juvenile
15 detention or commitment facility at the time of the crime upon
16 which the claim for compensation is based;
- 17 (d) Has been adjudicated as a habitual felony
18 offender, habitual violent offender, or violent career
19 criminal under s. 785.084; or
- 20 (e) Has been adjudicated guilty of a forcible felony
21 offense as described in s. 776.08,
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- 23 shall not be eligible for ~~to receive~~ an award ~~with respect to~~
24 ~~such claim.~~
- 25 (3) Any claim filed by or on behalf of a person who
26 was in custody or confined, regardless of adjudication, in a
27 county or municipal facility, a state or federal correctional
28 facility, or a juvenile detention, commitment, or assessment
29 facility at the time of the crime upon which the claim is
30 based, who has been adjudicated as a habitual felony offender
31 under s. 775.084, or who has been adjudicated guilty of a

1 forcible felony offense as described in s. 776.08, shall not
2 be eligible for an award. Notwithstanding the foregoing, upon
3 a finding by the Crime Victims' Services Office of the
4 existence of mitigating or special circumstances that would
5 render such a disqualification unjust, an award may be
6 approved. A decision that mitigating or special circumstances
7 do not exist in a case subject to this section shall not
8 constitute final agency action subject to review pursuant to
9 ss. 120.569 and 120.57.

10 ~~(4)(3)~~ No Payment may not ~~shall~~ be made under this
11 chapter if the person who committed the crime upon which the
12 claim is based will receive any direct or indirect financial
13 benefit from such payment, unless such benefit is minimal or
14 inconsequential. Payment may ~~shall~~ not be denied based on the
15 victim's familial relationship to the offender or based upon
16 the sharing of a residence by the victim and offender, except
17 to prevent unjust enrichment of the offender.

18 Section 5. Section 960.12, Florida Statutes, is
19 amended to read:

20 960.12 Emergency awards.--Notwithstanding ~~the~~
21 ~~provisions of~~ s. 960.07, if it appears to the department that
22 such claim is one with respect to which an award probably will
23 be made, and that either the claimant is a recipient of
24 benefits under the Federal Social Security Act or undue
25 hardship will result to the claimant if immediate payment is
26 not made, the department may make an emergency award to the
27 claimant, pending a final decision in the case, on the
28 following conditions:

29 (1) The amount of such emergency award may ~~shall~~ not
30 exceed \$1,000 ~~\$500~~;

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1 (2) The amount of such emergency award shall be
2 deducted from any final award made to the claimant; and

3 (3) The amount of such emergency award which is in
4 excess of the final award, or the full amount of the emergency
5 award if no final award is made, shall be repaid by the
6 claimant to the department.

7 Section 6. Paragraph (b) of subsection (1) and
8 subsections (6) and (9) of section 960.13, Florida Statutes,
9 are amended to read:

10 960.13 Awards.--

11 (1)

12 (b) In no case may an award be made when the record
13 shows that such report was made more than 72 hours after the
14 occurrence of such crime unless the department, for good cause
15 shown, finds the delay to have been justified. The department,
16 upon finding that any claimant or award recipient has not duly
17 cooperated with the state attorney, all law enforcement
18 agencies, and the department, may deny, reduce, or withdraw
19 any award, as the case may be.

20 (6) Any award made pursuant to this chapter, except an
21 award for loss of support, shall be reduced by the amount of
22 any payments or services received or to be received by the
23 claimant as a result of the injury or death:

24 (a) From or on behalf of the person who committed the
25 crime; provided, however, that a restitution award ordered by
26 a court to be paid to the claimant by the person who committed
27 the crime shall not reduce any award made pursuant to this
28 chapter unless it appears to the department that the claimant
29 will be unjustly enriched thereby.

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1 (b) From any other public or private source or
2 provider, including, but not limited to, an award of workers'
3 compensation pursuant to chapter 440.

4 (c) From agencies mandated by other Florida statutes
5 to provide or pay for services, except as provided in s.
6 960.28.

7 (d) From an emergency award under s. 960.12.

8 (9)(a) An award may not exceed:

9 1. Ten thousand dollars for treatment;

10 2. Ten thousand dollars for continuing or periodic
11 mental health care of a minor victim whose normal emotional
12 development is adversely affected by being the victim of a
13 crime;

14 3. A total of \$25,000 for all compensable costs; or

15 4. Fifty thousand dollars when the department makes a
16 written finding that the victim has suffered a catastrophic
17 injury as a direct result of the crime.

18 (b) The department may adopt rules that establish
19 limits below the amounts set forth in paragraph (a) and
20 establish criteria governing awards for catastrophic injury.~~a~~
21 ~~total of \$15,000 for all compensable cost or losses. However,~~
22 ~~awards for treatment may not exceed \$10,000. The department~~
23 ~~may, by rule adopted pursuant to chapter 120, establish limits~~
24 ~~below \$15,000 for awards for particular types of costs or~~
25 ~~losses. Any application filed on or after October 1, 1996,~~
26 ~~shall be governed under this section.~~

27 ~~(b) A minor victim may receive continuing or periodic~~
28 ~~mental health care necessitated by the adverse impact of~~
29 ~~victimization upon normal emotional development, up to the~~
30 ~~maximum award of \$10,000. After approval of the initial~~
31 ~~application for an award to a minor victim, the minor victim~~

1 ~~or the minor victim's legal guardian may submit supplemental~~
2 ~~requests for additional victimization treatment as necessary.~~

3 Section 7. Subsection (3) of section 960.14, Florida
4 Statutes, is amended to read:

5 960.14 Manner of payment; execution or attachment.--

6 (3) The department may reconsider a claim at any time
7 and modify or rescind previous orders for compensation, based
8 upon a change in ~~medical~~ circumstances of a victim or
9 intervenor.

10 Section 8. Section 960.198, Florida Statutes, is
11 created to read:

12 960.198 Relocation assistance for victims of domestic
13 violence.--

14 (1) Notwithstanding the criteria set forth in s.
15 960.13 for crime victim compensation awards, the department
16 may award a one-time payment of up to \$1,500 on any one claim
17 and a lifetime maximum of \$3,000 to a victim of domestic
18 violence who needs immediate assistance to escape from a
19 domestic violence environment.

20 (2) In order for an award to be granted to a victim
21 for relocation assistance:

22 (a) There must be proof that a domestic violence
23 offense was committed;

24 (b) The domestic violence offense must be reported to
25 the proper authorities;

26 (c) The victim's need for assistance must be certified
27 by a certified domestic violence center in this state; and

28 (d) The center certification must assert that the
29 victim is cooperating with law enforcement officials, if
30 applicable, and must include documentation that the victim has
31 developed a safety plan.

1 Section 9. Subsection (2) of section 960.28, Florida
2 Statutes, is amended to read:

3 960.28 Payment for victims' initial forensic physical
4 examinations.--

5 (2) The Crime Victims' Services Office of the
6 department shall pay for medical expenses connected with an
7 initial forensic physical examination of a victim who reports
8 a violation of chapter 794 or chapter 800 to a law enforcement
9 officer. Such payment shall be made regardless of whether or
10 not the victim is covered by health or disability insurance.
11 The payment shall be made only out of moneys allocated to the
12 Crime Victims' Services Office for the purposes of this
13 section, and the payment may not exceed \$250~~\$150~~ with respect
14 to any violation. Payment may not be made for an initial
15 forensic physical examination unless the law enforcement
16 officer certifies in writing that the initial forensic
17 physical examination is needed to aid in the investigation of
18 an alleged sexual offense and that the claimant is the alleged
19 victim of the offense. The department shall develop and
20 maintain separate protocols for the initial forensic physical
21 examination of adults and children. Payment under this section
22 is limited to medical expenses connected with the initial
23 forensic physical examination, and payment may be made to a
24 medical provider using an examiner qualified under chapter
25 464, excluding s. 464.003(5); chapter 458; or chapter 459.
26 Payment made to the medical provider by the department shall
27 be considered by the provider as payment in full for the
28 initial forensic physical examination associated with the
29 collection of evidence. The victim may not be required to pay,
30 directly or indirectly, the cost of an initial forensic
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1 physical examination performed in accordance with this
2 section.

3 Section 10. Sections 2 through 9 of this act apply
4 with respect to crimes committed on or after January 1, 2000,
5 and the law existing at the time the crime was committed
6 governs with respect to crimes committed before that date.

7 Section 11. This act shall take effect January 1,
8 2000, except that section 1 of this act shall take effect upon
9 becoming a law.

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